Community Development Block Grants: Neighborhood Stabilization Program; Assistance to Communities Affected by Foreclosures

Updated March 11, 2011

Congressional Research Service
https://crsreports.congress.gov
RS22919

Summary

In response to the rising number of home mortgage foreclosures the 110th Congress passed the Housing and Economic Recovery Act of 2008 (HERA), P.L. 110-289. Title III (Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes) of HERA authorized the creation of the Neighborhood Stabilization Program (NSP-1). Using the administrative framework of the Community Development Block Grant (CDBG) program, a total of $3.92 billion was allocated to 307 recipients, including all 50 states, Puerto Rico, insular areas, and qualifying local governments. Funds were awarded by formula based on a state or locality's concentrations of foreclosed homes, subprime mortgage loans, and delinquent home mortgages.

Since the passage of HERA, Congress has appropriated an additional $3 billion in NSP funds to assist state and local governments to acquire, rehabilitate, and resell the growing inventory of abandoned and foreclosed residential properties resulting from the home mortgage crisis. In 2009, Congress appropriated $2 billion for NSP-2 activities when it passed the American Recovery and Reinvestment Act of 2009 (ARRA), P.L. 111-5. ARRA revised key elements of the program as a result of a number of issues raised during the early implementation of NSP-1. Funds appropriated under ARRA for NSP-2 were awarded competitively and included non-profit and for-profit entities as direct recipients of funds when teamed with a state or local government. In 2010, Congress appropriated $1 billion for NSP-3 under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Wall Street Reform Act), P.L. 111-203. The Wall Street Reform Act also used a formula to award funds to states and qualifying local governments with high concentrations of foreclosed homes, subprime mortgages, and delinquent or defaulted residential mortgages.

Legislation appropriating funds for each of the three rounds included specific deadlines for the obligation and expenditure of funds. Under NSP-1, grantees were required to obligate funds within 18 months from the date HUD signed their grant agreements and to expend their allocations within four years of the allocation date. NSP-2 recipients are required to spend at least 50% of their grant awards within two years of the date funds were allocated, and 100% within three years of the date funds were allocated. Although the Wall Street Reform Act did not include a deadline identifying when funds were to be obligated, it did require that 50% of a recipient's allocation must be expended within two years, and 100% within three years.

On March 1, 2011, Representative Gary Miller introduced the Neighborhood Stabilization Termination Act, H.R. 861, which would rescind the $1 billion in NSP-3 funds appropriated under the Wall Street Reform Act. On March 2, 2011, the House Financial Services Committee's Subcommittee on Insurance, Housing, and Community Opportunity conducted a hearing on NSP and three federal foreclosure mitigation programs. On March 9, 2011, the House Financial Services Committee considered, marked up, and ordered reported H.R. 861. During the markup the committee approved by voice vote an amendment requiring HUD to publish a notice of termination of the NSP program on its website. The notice is to be posted within five days following the bill's enactment and is to include language directing citizens to contact their congressional representatives and locally elected officials if they are concerned about the impact of foreclosures on their communities.

This report will be updated as events warrant.

Contents

Figures

Tables

Contacts

Introduction

The increasing number of mortgage foreclosures poses a financial threat to local housing markets, financial institutions, homeowners, and state and local governments. The impact of the foreclosure crisis on financial institutions and homeowners has been well documented, and has been the focus of congressional debate in the formulation of policy options. The impact on state and local governments, as well as neighborhoods, also has garnered the attention of federal policy makers.

In 2007, as the mortgage foreclosure crisis began to unfold, the U.S. Conference of Mayors projected that in 2008, mortgage foreclosures

- would displace up to 1.4 million households from their homes;
- would result in $1.2 trillion in lost property values; and
- would potentially result in the loss of more than $1.4 trillion in projected real estate tax revenues—important sources of financing local government operations.[1]

Given the prospect of declining revenues, falling property values, and blighted neighborhoods with significant numbers of vacant houses, some local officials have sought relief through judicial actions.[2] In addition, various state and local officials called for federal intervention.

Congressional Action

Housing and Economic Recovery Act, Title III (P.L. 110-289)

In response to the mortgage foreclosure crisis several bills were introduced during the 110th Congress that were intended to address specific issues, including:

- reducing the number of homeowners facing foreclosure because of their inability to keep pace with rising interest rates as their adjustable rate mortgages, many of them subprime loans, reset;
- reclaiming the supply of vacant housing by providing assistance to states, local governments, and nonprofit entities that could use funds to acquire, resell, rehabilitate, rent, or demolish vacant properties in an effort to minimize potential

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[1] United States Conference of Mayors. *The Mortgage Crisis: Economic and Fiscal Implications for Metro Areas.* U.S. Metro Economies. November 2007. Global Insight.

[2] For instance, the cities of Cleveland and Baltimore have filed suits against commercial and investment banks. Cleveland's suit against 21 commercial and investment banks, some of them involved in securitizing mortgage loans, contends that the banks violated state law by creating a public nuisance when providing mortgages to homeowners who could not afford them. This allegedly resulted in a significant number of foreclosures, creating blighted conditions and reducing property values and tax collections. Baltimore's suit against Wells Fargo, which was filed in U.S. District Court of Maryland, Baltimore Division, contends that the bank discriminated against black homebuyers by selling subprime, high interest loans to them at a higher rate than white homebuyers. See *City of Cleveland v. Deutsche Bank,* Court of Common Pleas, Cuyahoga County, Ohio, available at http://www.city.cleveland.oh.us/pdf/whats_new/ForeclosureDocument1-11-08.pdf, and *Mayor and City Council of Baltimore v. Wells Fargo*, U.S. District Court of Maryland, Baltimore Division, Case No. LO8CV 062, available at http://www.relmanlaw.com/City%20of%20Baltimore%20v.%20Wells%20Fargo%20-%2008-cv-62%20-%20Complaint.pdf.

blight and associated problems in neighborhoods with high concentrations of foreclosed properties; and

- addressing declining tax revenues, particularly property taxes and the subsequent cutbacks or curtailment in the delivery of public services.

Despite initial objections raised by the Bush Administration, including the threat of a presidential veto, H.R. 3221, HERA, including Title III authorizing NSP, passed the House on July 23, 2008, and the Senate on July 26, 2008.[3] Despite his objections to the provisions of Title III, President Bush signed H.R. 3221 into law as P.L. 110-289 on July 30, 2008.

Title III of HERA—Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes—appropriated $3.92 billion in supplemental CDBG assistance to states and local governments based on a formula developed by HUD that differs from that used to distribute funds under the regular CDBG program. HERA directed HUD to establish an allocation formula that distributed funds to states and local governments with the greatest need as measured by:

- the number and percentage of foreclosed homes in each state or locality;
- the number and percentage of subprime mortgages in each state or locality; and
- the number and percentage of homes in default or delinquency in each state or locality.

The measure gave HUD 60 days after enactment to establish a formula for allocating funds to eligible states and local governments, and an additional 30 days to distribute funds to states and local governments. Nonprofit entities were allowed to participate in the program as sub-grantees, but could not receive a direct allocation of funds.

Formula and Allocation of Funds

Each state and local government that received funds under what became known as NSP-1 was required to allocate funds within 18 months of receipt and to give priority consideration to areas and metropolitan communities with:

- the greatest percentage of home foreclosures;
- the highest percentage of subprime loans; and
- the greatest likelihood of facing a significant rise in the number of home foreclosures.

Although HERA identified specific factors to be used by HUD to develop a formula, it did not specify an actual formula other than requiring a minimum allocation for each state of 0.5% of the amount appropriated ($19.6 million). On October 6, 2008, HUD published in the *Federal Register* a notice on the allocation of NSP funds including information on the formula developed by HUD to distribute funds. HUD's weighted two-tiered formula used several sources to calculate state and local government allocations.[4]

[3] The Senate version of the Housing and Economic Recovery Act (HERA)—which was introduced by Senator Dodd in the nature of a substitute and included Title III authorizing NSP—initially passed the Senate on April 10, 2008. Subsequently, in an effort to expedite consideration and passage of the measure, the House and Senate engaged in an amendment exchange, rather than establishing a conference committee. The House version of H.R. 3221 did not include CDBG funds to buy foreclosed property.

[4] Data sources use in the formula to distribute NSP-1 funds included the Mortgage Bankers Association National Delinquency Survey; the Census Bureau's American Community Survey; the Federal Reserve's Home Mortgage

HUD first distributed the $3.92 billion in total appropriations to the 50 states, the District of Columbia, and U.S. territories, by assigning weights to the factors used in the formula. A total of nine factors were used to calculate each state's allocations, including (1) foreclosure starts in the last six quarters in the state and nation; (2) state and national foreclosure rates per household; (3) state and national subprime loans; (4) state and national subprime rate; (5) loans in default in the state and nation; (6) loan default rate in the state and nation; (7) loans 60 to 89 days delinquent in the state and nation; (8) rate of loans 60 to 89 days delinquent in the state or nation; and (9) state and national vacancy rate in census tracts with more than 40% of the loans that are subprime or high-cost loans. Each of these nine variables received the following weights outlined below. It is important to note that the number and the rate of each of the variables was used in the formula. The statewide allocations were calculated using the formula presented in **Figure 1**.

Figure 1. Formula Developed by HUD to Allocate $3.92 Billion in NSP-1 Funds at the State Level

Includes the 50 states, the District of Columbia and U.S. Territories

$$\text{Statewide Allocation} = \$3.92 \text{ billion} *$$

$$\Bigg\{ \Bigg[0.7 * \frac{\text{(State's foreclosure starts in last 6 quarters)}}{\text{National foreclosure starts in last 6 quarters}} * \frac{\text{(State foreclosure rate)}}{\text{National foreclosure rate}} +$$

$$0.15 * \frac{\text{(State's Number of subprime loans)}}{\text{National number of subprime loans}} * \frac{\text{(State subprime rate)}}{\text{National subprime rate}} +$$

$$0.10 * \frac{\text{(State's number of loans in default)}}{\text{National number of loans in default}} * \frac{\text{(State default rate)}}{\text{National default rate}} +$$

$$0.05 * \frac{\text{(State's loans 60 to 89 days delinquent)}}{\text{National loans 60 to 89 days delinquent}} * \frac{\text{(State 60 to 89 day delinq rate)}}{\text{National 60 to 89 day delinq rate}} \Bigg]$$

$$* \frac{\text{(State vacancy rate in Census Tracts with more than 40\% of the loans High-cost)}}{\text{National vacancy rate in Census Tracts with more than 40\% of the loans High-cost}} \Bigg\}$$

Source: *Federal Register*, Vol. 73, No. 194, Monday, October 6, 2008, page 58344. Available at http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nspnotice.pdf

Each state's allocation was further distributed to local governments using the second tier of the two-step allocation process. The second formula allocated funds based on a community's relative share of foreclosures and abandoned homes in the state. Each jurisdiction's allocation was calculated as shown in **Figure 2**.

Disclosure Act (HMDA) data on high-cost loans at greatest risk of default and foreclosure; the Office of Federal Housing Enterprise Oversight (OFHEO) data on home price declines; unemployment data from the Bureau of Labor Statistics; and U.S. Postal Service data on home vacancies.

Figure 2. Formula Developed by HUD to Allocate NSP Funds Below State Level

$$\text{Local Allocation} = (\text{Statewide allocation} - \$19{,}600{,}000) * \left[\frac{\text{(Local estimated foreclosure starts in last 6 quarters)}}{\text{State total foreclosure starts in last 6 quarters}} * \frac{\text{(Local vacancy rate in Census Tracts with more than 40\% of the loans High-cost)}}{\text{State vacancy rate in Census Tracts with more than 40\% of the loans High-cost}} \right]$$

Source: *Federal Register*, Vol. 73, No. 194, Monday, October 6, 2008, page 58345. Available at http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nspnotice.pdf

Communities that received a minimum allocation of $2 million based on the formula outlined in **Figure 2** were allowed to directly administer their share of the state's NSP allocation, whereas all other CDBG entitlement communities not meeting this threshold were directed to request funds from the state. Based on a minimum threshold of $2 million, approximately 250 communities received direct allocations of NSP-1 funds. This is approximately 900 fewer communities than received grants under the regular CDBG program.

Eligible Activities

Unlike the larger CDBG program, which allows state and local government grant recipients to undertake any of 27 eligible activities authorized under the statute, HERA restricted grant recipient use of NSP funds to the following housing and foreclosure-related activities:

- the creation of financing instruments that enable state and local government NSP recipients to finance the purchase and redevelopment of foreclosed homes and residential properties;
- the purchase and redevelopment of foreclosed residential properties for sale, rent, or redevelopment;
- the demolition of blighted residential structures;
- the establishment of land banks; and
- the redevelopment of vacant and demolished properties.

It should be noted that the ARRA made significant changes to the list of eligible activities. For example, ARRA limited the use of funds for land banks and demolition of blighted structures. Additional information on changes made by ARRA is provided in the NSP-2 section of this report.

Restrictions, Limitations, and Prohibitions

Purchase and Resell Price Restrictions. HERA limited the purchase and resell price of a home or residential property acquired by NSP grant recipients. HERA required that the purchase price amount that a grant recipient may pay to acquire a residential property must be less than the home's current appraised market value. The discounted value should be significant enough to ensure that when the home is sold by the state or local government the purchaser (homebuyer) will pay below market value for the home or residential property. Further, when a foreclosed home or property is to be purchased as a primary residence by an eligible homebuyer, the act limits the price for which a state and local government may resell such property. The resale price of the home can be no more than the cost the state or local government paid to acquire, redevelop, or rehabilitate the property.

Recapture of Funds. As originally enacted, HERA required a community or state to reinvest all profits earned during the first five years following its enactment in additional sales, rentals, redevelopment, and rehabilitation of foreclosed homes and properties. After the five-year period, all profits could be recaptured by the federal government and deposited in the U.S. Treasury unless HUD approved a request to allow a community or state to continue to use funds to finance activities eligible for assistance under HERA. The five-year recapture provision was eliminated with the passage of ARRA.

Other NSP provisions of HERA have the same requirements as funds appropriated under the regular CDBG program. For the sole purpose of expediting the use of funds under HERA, however, HUD issued alternative requirements to those governing the regular CDBG appropriations, except for requirements related to fair housing, nondiscrimination, labor standards, and environmental review. In addition, HERA:

- prohibits funds from being used in economic development projects involving the use of eminent domain;
- limits the income of individuals and families who may benefit from assistance provided by the act to those whose incomes do not exceed 120% of the area's median income;
- requires a state and local government to certify that at least 25% of the amount allocated by the act would be used to purchase and redevelop housing for individuals and families whose incomes do not exceed 50% of the area's median income (AMI); and
- requires that each state receives a minimum allocation of 0.5% of the amount appropriated.

Table 1 presents data from HUD showing the distribution of NSP-1 funds by state.

Table 1. Allocation of NSP-1 Funds by HUD

State Name	NSP-1 Funds	Number of Grantees in State
Alabama	$41,851,121	3
Alaska	$19,600,000	1
Arizona	$121,119,049	10
Arkansas	$19,600,000	1
California	$529,601,774	47
Colorado	$53,053,033	5
Connecticut	$25,043,385	1
Delaware	$19,600,000	1
District of Columbia	$2,836,384	1
Florida	$541,364,780	49
Georgia	$153,037,451	10
Hawaii	$19,600,000	1

State Name	NSP-1 Funds	Number of Grantees in State
Idaho	$19,600,000	1
Illinois	$172,509,479	14
Indiana	$151,936,496	13
Iowa	$21,607,197	1
Kansas	$20,970,242	1
Kentucky	$44,382,509	2
Louisiana	$38,795,050	3
Maine	$19,600,000	1
Maryland	$46,370,822	4
Massachusetts	$54,806,330	5
Michigan	$263,563,262	23
Minnesota	$57,783,175	6
Mississippi	$46,267,963	2
Missouri	$64,859,275	4
Montana	$19,600,000	1
Nebraska	$19,600,000	1
Nevada	$71,934,352	5
New Hampshire	$19,600,000	1
New Jersey	$63,995,490	6
New Mexico	$19,600,000	1
New York	$100,318,608	7
North Carolina	$57,734,781	2
North Dakota	$19,600,000	1
Ohio	$258,089,179	23
Oklahoma	$32,851,741	2
Oregon	$19,600,000	1
Pennsylvania	$88,122,808	6
Puerto Rico	$19,600,000	1
Rhode Island	$19,600,000	1
South Carolina	$49,158,407	3

State Name	NSP-1 Funds	Number of Grantees in State
South Dakota	$19,600,000	1
Tennessee	$72,520,649	6
Texas	$178,143,197	15
Utah	$19,600,000	1
Vermont	$19,600,000	1
Virginia	$45,691,843	3
Washington	$28,159,293	1
West Virginia	$19,600,000	1
Wisconsin	$47,976,588	2
Wyoming	$19,600,000	1
Insular Areas	$1,144,287	4
TOTAL	$3,920,000,000	308

Source: HUD. Available at http://www.hud.gov/nsp.

According to HUD, by September 30, 2010, NSP-1 grantees had obligated 101.6% of their program funds within the 18-month time frame specified by the authorizing statute. HUD also reported that NSP-1 grantees expended 49.1% of their grant funds by November 2010. Further, HUD reported that NSP-1 grantees had committed and expended 14% of their grant funds to meet the requirement that at least 25% of program funds be used to benefit households whose incomes do not exceed 50% of the area's median income (AMI).[5]

NSP 2: American Recovery and Reinvestment Act, Title XII (P.L. 111-5)

Legislative Action

During the first month of the 111th Congress, Members debated the passage of the American Recovery and Reinvestment Act of 2009 (ARRA, H.R. 1). ARRA, which was signed by President Obama on February 17, 2009, as P.L. 111-5, sought to mitigate the effects of the economic recession. On February 13, 2009, both the House and the Senate passed the conference version of the act, which includes $2 billion for NSP activities.[6] The act gave HUD until September 30, 2010, to allocate funds to eligible recipients. Recipients are required to spend at least half of the funds within two years of allocation, and 100% within three years of the date funds are allocated.

[5] Department of Housing and Urban Development, *Program-Wide Detail Report* , HUD NSP-1 Reporting November 2010, Washington, DC, http://hudnsphelp.info/media/snapshots/11-30-2010/1PW-DETAIL-11302010.pdf.

[6] As initially passed by the House, ARRA would have provided an additional $4.19 billion for the CDBG-based NSP, and would have required $3.44 billion of this amount to be distributed competitively to non-profits, states, and local governments with $750 million allocated solely to non-profits on a competitive basis. The Senate version of ARRA did not include funding for the NSP program.

Eligible Entities and Distribution of Funds

Under ARRA, $1.93 billion funds from the NSP-2 were distributed competitively to states, local governments, nonprofit entities, and consortia of for-profit and non-profit entities, partially based on the highest number and percentage of foreclosures. This was a departure from NSP-1, which distributed funds by formula to states and eligible local government. In addition to need-based factors that measure the concentration of foreclosures, ARRA directed HUD to select eligible entities based on additional factors that measured project quality such as:

- a grantee's demonstrated ability to carry out proposed activities and expend funds within two to three years;
- a project's potential leveraging of other funds, both private and public;
- the concentration of investment needed to achieve neighborhood stabilization; and
- other factors determined by HUD.

ARRA required HUD to publish grant selection criteria within 75 days of passage of the law, and applications are due to HUD no later than 150 days after passage of the law. HUD was also given discretion to establish a minimum grant size. The program's Notice of Funding Availability (NOFA), posted on the HUD website on May 4, 2009, required that the amount requested was to be of "sufficient size to contribute toward significant and measurable neighborhood stabilization." The minimum grant request could be not less than $5 million, and was required to return at least 100 abandoned or foreclosed homes back to the housing stock. The act also required grantees to obligate NSP-2 funds within one year of its enactment. On January 14, 2010, HUD announced the awarding of $1.93 billion to 56 NSP-2 grant recipients. **Table 2** list NSP-2 grant recipients by state.

Table 2. NSP-2 Recipients and Allocations by State

Grantee by State	Allocation Amount
Alabama	**20,000,000**
Housing Authority of the City of Prichard	20,000,000
Arkansas	**15,046,706**
City of Little Rock	8,602,359
City of North Little Rock, Arkansas	6,444,347
Arizona	**117,948,964**
Chicanos Por La Causa, Inc.	35,783,964
City of Phoenix	60,000,000
Pima County	22,165,000
California	**318,046,837**
Alameda County	11,000,000
Center for Community Self-Help	4,781,491
Chicanos Por La Causa, Inc.	30,795,385
City of Indio	8,310,000
City of Long Beach, California	22,249,980

City of Los Angeles	100,000,000
City of Modesto	25,000,000
City of Santa Ana	10,000,000
Habitat for Humanity International, Inc.	13,409,981
Housing Trust of Santa Clara County, Inc.	25,000,000
Los Angeles Neighborhood Housing Services, Inc.	60,000,000
Neighborhood Housing Services of Orange County	7,500,000
Colorado	**42,427,680**
Chicanos Por La Causa, Inc.	23,433,236
City & County of Denver Office of Economic Development	18,994,444
Connecticut	**231,362**
Center for Community Self-Help	231,362
District of Columbia	**22,547,367**
Chicanos Por La Causa, Inc.	1,082,085
DC Department of Housing and Community Development	9,550,562
National Housing Trust Community Development Fund	10,632,066
The Community Builders, Inc.	1,282,654
Delaware	**10,007,109**
Delaware State Housing Authority	10,007,109
Florida	**348,311,034**
City of Sarasota	23,000,000
Habitat for Humanity International, Inc.	74,698,534
Housing Authority of the City of Tampa	38,000,000
Lake Worth Community Redevelopment Agency	23,237,500
Neighborhood Housing Services of South Florida, Inc.	89,375,000
Neighborhood Lending Partners of West Florida, Inc.	50,000,000
Georgia	**3,451,157**
Center for Community Self-Help	3,451,157
Illinois	**160,151,641**
Center for Community Self-Help	3,299,543
Chicanos Por La Causa, Inc.	13,551,959

City of Chicago	98,008,384
City of Evanston	18,150,000
Rock Island Economic Growth Corporation	18,530,708
The Community Builders, Inc.	8,611,047
Indiana	**14,062,500**
The Community Builders, Inc.	14,062,500
Louisiana	**29,782,103**
New Orleans Redevelopment Authority	29,782,103
Massachusetts	**47,927,795**
City of Boston	13,610,343
Massachusetts Housing Investment Corporation	21,822,940
The Community Builders, Inc.	12,494,512
Maryland	**31,382,096**
Chicanos Por La Causa, Inc.	5,289,216
Healthy Neighborhoods, Inc.	26,092,880
Michigan	**223,875,399**
Michigan State Housing Department Authority	223,875,399
Minnesota	**37,486,779**
City of Minneapolis	19,455,156
City of Saint Paul	18,031,623
North Carolina	**4,687,500**
The Community Builders, Inc.	4,687,500
New Jersey	**46,826,965**
Camden Redevelopment Agency	11,926,887
City of Newark	20,759,155
Housing Authority of the City of Camden	14,140,923
New Mexico	**2,994,932**
Chicanos Por La Causa, Inc.	2,994,932
Nevada	20,995,000
Housing Authority of the City of Reno	20,995,000
New York	**36,116,799**
NYC Dept. of Housing Preservation and Development	20,059,466
Habitat for Humanity International, Inc.	10,536,327

The Community Builders, Inc.	5,521,006
Ohio	**175,214,547**
City of Columbus	23,200,773
City of Dayton	29,363,660
City of Springfield, Ohio	6,101,315
City of Toledo	10,150,840
Cuyahoga County Land Revitalization Corp.	40,841,390
Hamilton County, Ohio	24,068,968
State of Ohio	25,422,148
The Community Builders, Inc.	16,065,453
Oregon	**6,829,635**
Oregon Housing and Community Services	6,829,635
Pennsylvania	**68,883,958**
Chicanos Por La Causa, Inc.	8,735,967
City of Philadelphia	43,942,532
City of Reading	5,000,000
The Community Builders, Inc.	11,205,459
Tennessee	**30,470,000**
Metropolitan Development and Housing Agency	30,470,000
Texas	**53,605,067**
Chicanos Por La Causa, Inc.	15,440,389
El Paso Collaborative For Community & Economic Development	10,191,000
Habitat for Humanity International, Inc.	27,973,678
Virginia	**4,687,500**
The Community Builders, Inc.	4,687,500
Wisconsin	**36,001,568**
City of Milwaukee	25,000,000
Habitat for Humanity International, Inc.	11,001,568
Grand Total	**1,930,000,000**

Source: HUD at http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2010/HUDNo.10-012,

Eligible Activities

ARRA made several modifications governing the use of NSP funds, including funds previously appropriated under HERA. It revised section 2301(c)(3)(C) of HERA related to the establishment of land banks for homes that have been foreclosed upon. Under ARRA, the establishment and ***operation*** of land banks was included as an eligible activity. Activities related to demolition under HERA were also amended by ARRA. Under ARRA, a grantee may not use more than 10% of its grant for demolition activities, unless HUD provides a waiver indicating that local market conditions make such demolition acceptable. Previously, under HERA, demolished vacant properties could be redeveloped for purposes other than housing. ARRA requires that redeveloped properties be ***only*** related to housing.

In addition, ARRA allowed HUD to use up to 10% of NSP funds for capacity building and technical assistance. HUD set aside $50 million for technical assistance grants (NSP-TA) to be used to assist NSP grantees in adopting sound underwriting and fiscal controls; to enhance the technical, management and financial capacity of NSP recipients; to develop and implement performance measures; and to incorporate energy efficiency strategies into state and local NSP program plans. On August 26, 2009, HUD announced the awarding of NSP-TA grants to 9 national ($44.5 million) and 10 local organizations ($5.5 million).[7]

ARRA also allowed HUD to use up to 1% of NSP funds for staffing, training, technical assistance, monitoring, travel, research, and evaluation. Funds set aside for this purpose are available until September 30, 2012. HUD was granted authority to waive NSP requirements, with the exception of fair housing, non-discrimination, labor standards and environmental requirements.

Protections and Prohibitions

ARRA established several protections for renters, including tenants receiving federal and state assisted housing benefits. ARRA stipulated that grantees may not refuse to lease a housing unit acquired with NSP funds to a tenant who is already receiving Section 8 housing assistance.[8] In addition, entities that acquire foreclosed properties with NSP funds are required to give tenants notice to vacate a property at least 90 days before the effective date of such notice. ARRA established several requirements for a bona fide lease under this clause. A lease is considered bona fide if the mortgagor is not the tenant; if rent is not substantially below fair market rent; and if the renter and the tenant are not related, and have no overt common interests that would make the tenant contract void.

Since individuals eligible for federal housing vouchers or certificates of eligibility can benefit from NSP funding, grantees that take over a property previously rented to an assisted housing beneficiary are subject to the lease and housing assistance payments for the occupied units. Grantees cannot terminate the lease based solely on the status of the tenant as a holder of a Section 8 certificate or voucher. Vacating the property prior to the sale is not a cause to terminate the lease contract, unless the owner decides to use the property for private or family use. If a public housing agency is unable to make payments to a successor tenant who is not eligible for federal housing assistance, the funds can be used to pay for utilities, moving costs, and security deposit payments. In addition, no funding under ARRA can be used to demolish public housing.

[7] U.S. Department of Housing and Urban Development, "HUD Annouces $50 million in Recovery Act Funds to Assist Local Communities Stabilize Neighborhoods Hard Hit by Foreclosure," press release, August 26, 2009, http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2009/HUDNo.09-159.

[8] 42 U.S.C. 1437f

NSP 3: Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203)

Legislative Action

Congress appropriated an additional $1 billion for NSP-3 under the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203, which was signed into law on July 21, 2010. Unlike the competitive format used to award NSP-2 funds, NSP-3 funds established a $5 million allocation for states and $1 million minimum allocation for non-state grantees.

Eligible Entities and Distribution of Funds

On October 19, 2010, HUD published a Notice in the *Federal Register* detailing program requirements and allocation method used to allocate NSP-3 funds.[9] The Wall Street Reform Act established a minimum allocation of 0.5% ($5 million) for each of the 50 states and $1 million for local units of government.[10] The act also required that funds be allocated to states and communities with the greatest need as measured by the percentage of homes in foreclosure that were financed with subprime loans, and loans in delinquency or default. HUD, in publishing its notice, established a targeting threshold for communities that would receive a direct allocation. Specifically, HUD stated:

> The basic formula allocates funds based on the number of foreclosures and vacancies in the 20 percent of US neighborhoods (Census Tracts) with the highest rates of homes financed by a subprime mortgage, are delinquent, or are in foreclosure. This basic allocation is adjusted to ensure that every state receives a minimum of $5 million.[11]

According to HUD's calculations, approximately 283 grantees may receive a direct allocation of funds. The list of possible grantees was announced on September 19, 2010, and published in the October 19, 2010, Federal Register Notice. Potential recipients had until March 1, 2011, to submit program plans to HUD. According to March 2, 2011, testimony by HUD's Assistant Secretary for Community Planning and Development, Mercedes M. Márquez, during a House subcommittee hearing on the program, HUD will obligate NSP-3 funds by March 31, 2011.[12] The Wall Street Reform Act gives grantees two years from the date a grant agreement is signed with HUD to expend 50% of their NSP-3 allocation and three years to expend 100% of these funds.

Current Debate

On March 1, 2011, Representative Gary Miller introduced the Neighborhood Stabilization Termination Act, H.R. 861, which would rescind the $1 billion in NSP-3 funds appropriated under the Wall Street Reform Act. On March 2, 2011, the House Financial Services Committee's Subcommittee on Insurance, Housing, and Community Opportunity conducted a hearing on NSP

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[9] U.S. Department of Housing and Urban Development, "Notice of Formula Allocations and Program Requirements for Neighborhood Stabilization Program Formula Grants," 75 *Federal Register* 64332-64348, October 19, 2010. http://hudnsphelp.info/media/resources/NSP3FederalRegisterNotice_October192010.pdf

[10] 124 Stat. 2209.

[11] U.S. Department of Housing and Urban Development , *HUD's Methodology for Allocating the Funds for Neighborhood Stabilization*, Washington, DC, p. 1, http://www.huduser.org/portal/datasets/NSP3%20Methodology.pdf.

[12] U.S. Congress, House Financial Services, Insurance, Housing, and Community Opportunity, "Legislative Proposals to End Taxpayer Funding for Ineffective Foreclosure Mitigation Programs," 112th Cong., 1st sess., March 2, 2011, p. 4. http://financialservices.house.gov/media/pdf/030211marquez.pdf

and three federal foreclosure mitigation programs. On March 9, 2011, the House Financial Services Committee considered, marked up, and ordered reported H.R. 861. During the markup the committee approved by voice vote an amendment requiring HUD to publish a notice of termination of the NSP program on its website. The notice is to be posted within five days following the bill's enactment and is to include language directing citizens to contact their congressional representatives and locally elected officials if they are concerned about the impact of foreclosures on their communities.

During the March 2, 2011, subcommittee hearing and the March 9, 2011, markup session by the House Financial Services program, Representative Miller, sponsor of H.R. 861, characterized the program as ineffective and a waste of taxpayers' dollars. He argued that given the need to address the larger issue of reducing the federal debt and deficit that funding for NSP-3 should be rescinded. In addition, he argued that the program was a give-away to banks and speculators. Other Members countered that the program has been successful in assisting communities to combat the negative impacts of the mortgage foreclosure crisis on neighborhoods, property values, and local revenues generated by property taxes. During the March 2 hearing, HUD's Assistant Secretary for Community Planning and Development, Mercedes M. Márquez, offered written testimony stating that HUD expects "NSP will impact 100,000 properties in the nation's hardest-hit markets," with 36,000 units already under construction.[13] In addition, the Assistant Secretary's testimony stated that "based on NSP1 activity budgets, the Department estimates that NSP will support more than 93,000 jobs nationwide."[14] Members also argued that the program helps reduce the supply of abandoned, blighted, and foreclosed housing stock.

A companion bill to H.R. 861 has not been introduced in the Senate.

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[13] U.S. Congress, House Financial Services , Insurance, Housing, and Community Opportunity, *"Legislative Proposals to End Taxpayer Funding for Ineffective Foreclosure Mitigation Programs"*, 112th Cong., 1st sess., March 2, 2011, p. 4-5. http://financialservices.house.gov/media/pdf/030211marquez.pdf.

[14] Ibid. p. 8.

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